

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVID A. BROWN,

Case No. 3:-08-cv-141

Plaintiff,

-vs-

**District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz**

OFFICER MALICKI, et al.,

Defendants.

**ENTRY AND ORDER ADOPTING THE CHIEF MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #9) IN ITS ENTIRETY AND
DISMISSING DEFENDANT SPRINGFIELD POLICE DEPARTMENT
(Doc. #5)**

This matter is before the Court pursuant to Chief Magistrate Judge Merz's Report and Recommendations (doc. #9) regarding the Motion To Dismiss filed by Defendant Springfield Police Department (doc. #5). Pursuant to his request, Pro se Plaintiff David A. Brown ("Brown") was given until June 30, 2008, to file objections to this Report and Recommendations and has not done so. Brown did, however, file a Motion for Summary Judgment. (Doc. #12.)

Brown's Motion for Summary Judgment includes claims against the Springfield Police Department. Chief Magistrate Judge Merz analyzed these claims and, in the Second Report and Recommendations, again recommends dismissal of the Springfield Police Department. (Doc. #13.) This Court then adopted Chief Magistrate Judge Merz's Second Report and Recommendations in its entirety (doc. #15) and overruled Brown's Motion for Summary Judgment.

The District Judge has made a de novo review of the record on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that the Springfield Police Department has not been removed from the docket as a Defendant. The Court further finds that the Springfield Police Department's dismissal may not be clear from the docket and associated Orders of the Court. Finally, the Court finds that the Springfield Police Department should be dismissed. Therefore, the Chief Magistrate Judge's first Report and Recommendations (doc. #9) is adopted in its entirety. The Springfield Police Department's Motion To Dismiss (Doc. #5) is GRANTED.

DONE and **ORDERED** in Dayton, Ohio, this Nineteenth day of September, 2008.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

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